

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

SLEEPING WELL, LLC,
Plaintiff,
v.

THE TRAVELERS INDEMNITY COMPANY,
Defendant.

No. C 10-03658 CW

ORDER DENYING
PLAINTIFF'S
APPLICATION FOR
LEAVE TO FILE A
MOTION FOR
CLARIFICATION,
OR, IN THE
ALTERNATIVE,
RECONSIDERATION
(Docket No. 39)

Plaintiff Sleeping Well, LLC, moves pursuant to Civil L.R. 7-9 for clarification of the December 23, 2010 Order Denying Cross-Motions for Summary Judgment, which was issued by the judge to whom this case was then assigned.¹ Defendant St. Paul Fire and Marine Insurance Company, erroneously sued as The Travelers Indemnity Company, opposes the motion.

Neither Civil L.R. 7-9, nor any other Civil Local Rule, provides for a motion for clarification. Further, the Court finds the December 23, 2010 to be clear, unambiguous and not requiring clarification.

Plaintiff also has not met its burden to justify granting leave to file a motion for reconsideration. Under Civil L.R. 7-9, a party may ask a court to reconsider an interlocutory order if the party can specifically show:

(1) That at the time of the motion for leave, a material difference in fact or law exists from that which was

¹ On January 3, 2011, after Plaintiff's current motion was filed, this case was reassigned to the undersigned.

presented to the Court before entry of the interlocutory order for which reconsideration is sought. The party also must show that in the exercise of reasonable diligence the party applying for reconsideration did not know such fact or law at the time of the interlocutory order; or

(2) The emergence of new material facts or a change of law occurring after the time of such order; or

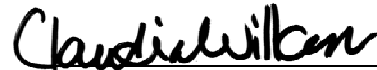
(3) A manifest failure by the Court to consider material facts or dispositive legal arguments which were presented to the Court before such interlocutory order.

Civ. L.R. 7-9(b). Plaintiff relies on Civ. L.R. 7-9(b)(3), but fails to establish a manifest failure by the previously assigned judge to consider material facts or dispositive legal arguments.

Accordingly, Plaintiff's motion is DENIED. (Docket No. 39.)

IT IS SO ORDERED.

Dated: 3/8/2011



CLAUDIA WILKEN
United States District Judge